

# FEDERAL ELECTION COMMISSION

July 26, 2018

In the matter of: Theresa Gasper  
Theresa Gasper for Congress

MUR

7457

OFFICE OF  
GENERAL COUNSEL  
2018 JUL -2 PM 12:07

## COMPLAINT

1. Citizens for Turner ("CFT" or "Complainant") brings this complaint before the Federal Election Commission ("Commission") seeking immediate investigation and enforcement action against Theresa Gasper and Theresa Gasper for Congress (jointly, "Respondents") for violations of federal law, to wit, the Federal Election Campaign Act ("Act").

2. Gasper, the Respondent, did knowingly and intentionally misrepresent to the public that her campaign for the United States Congress was endorsed by five (5) local universities, for the purposes of fraudulently seeking contributions to her campaign, thereby recklessly placing the tax exempt status of the universities at risk and jeopardizing millions of dollars in federal funds. Although Gasper had been forewarned by one of the universities not to indicate, on any manner, an endorsement by said university, Gasper did knowingly and intentionally produce and cause to be disseminated material fraudulently claiming that the five (5) universities were a host committee for her campaign fundraiser. When several universities issued "cease and desist" orders to Gasper, Gasper incredibly claimed that the designation of the universities as a host committee was a "formatting" error, although the universities made it clear that their names should not have appeared anywhere on the four corners of any contribution solicitation material for Gasper's campaign. In the alternative, Gasper has accepted an illegal campaign contribution as set forth herein.

## Complainants

3. Complainant CFT (FEC#C00373001) is the principal campaign committee for Michael R. Turner. Turner currently represents the Tenth Congressional District of Ohio, which includes all or part of Montgomery, Greene, and Fayette Counties.

4. Complainant's representative is Kevin Doering, Deputy Campaign Manager of CFT, a citizen of the United States, and a registered voter and resident in the State of Ohio. As a

registered voter, Mr. Doering is harmed when a candidate knowingly accepts or receives a contribution prohibited by the Act or other relevant laws.

5. Complainant also files this Complaint to prevent imminent harm to innumerable parties within the greater Dayton, Ohio metropolitan area and the southwest Ohio region that could result from Respondents' actions, as described in this Complaint. Actions taken by Respondents could jeopardize the tax-exempt Internal Revenue Code section 501(c)(3) organizational status of the institutions of higher education referenced in campaign and fundraising material in question. *See paragraph 9 infra.*

#### Respondents

6. Respondent Theresa Gasper is a Democrat candidate for the Tenth Congressional District of Ohio, and a candidate for Federal office, as defined by 52 U.S.C. §30101(2)-(3), and as such, is subject to the jurisdiction of the Commission.

7. Respondent Theresa Gasper for Congress (C00665471) is apparently the principal campaign committee, as defined by 52 U.S.C. §30101(5), for Theresa Gasper, and is therefore subject to the jurisdiction of the Commission.

#### Factual Allegations

8. On information and belief, Respondents knowingly, intentionally, falsely, and without authorization represented the support of, and endorsement by, the University of Dayton, Wright State University, Sinclair Community College, Central State University, and Antioch College in the 2018 Congressional race for the Tenth District of Ohio seat in the United States House of Representatives.

9. On information and belief, on or before July 11, 2018, Respondents created and publicly disseminated campaign and fundraising materials. These materials advertised a campaign fundraising event on behalf of Respondents, to be hosted by a "Committee" comprised of local colleges and universities.

10. The named institutions of higher education are the University of Dayton, Wright State University, Sinclair Community College, Central State University, and Antioch College (jointly, "institutions of higher education").

11. On information and belief, Exhibit 1 (attached hereto) is a true and accurate copy of the materials referenced in paragraph 9 *supra*.

12. On information and belief, Respondents used the name of Central State University, despite Central State University issuing a prior warning to Respondents not to do so. See Exhibit 2 (attached hereto) (Will Garbe, "University warned candidate Theresa Gasper against implying school's endorsement," *Dayton Daily News*, 12 July 2018

<<https://www.daytondailynews.com/news/local/central-state-warned-candidate-theresa-gasper-against-implying-school-endorsement/Iwa1XtELXPy9ToZPS6xEEM/>>).

13. On information and belief, Respondents admitted to improperly displaying the names of the institutions of higher education on Exhibit 1, attributing it to a "formatting error." See Exhibit 2. Respondents' purported explanation of "formatting error" is impossible to maintain because there is no permissible reason for the appearance of the names of these institutions of higher education on such political campaign or fundraising materials in the first place.

14. On information and belief, the appearance of the names of the institutions of higher education on such political campaign and fundraising materials could expose them to liability for violations of the Internal Revenue Code, jeopardizing their 501(c)(3) non-profit organization status and putting at risk both the federal financial aid for students attending these institutions of higher education and the tens of millions of federal dollars that flow to the institutions of higher education themselves (and, in turn, into the local community).

15. Pursuant to the Internal Revenue Code, all section 501(c)(3) organizations, including federally-funded universities, "are absolutely prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office. Contributions to political campaign funds or public statements of position (verbal or written) made on behalf of the organization in favor of or in opposition to any candidate for public office clearly violate the prohibition against political campaign activity. Violating this prohibition may result in denial or revocation of tax-exempt status and the imposition of certain excise taxes." See 26 USC 501(c)(3); <<https://www.irs.gov/charities-non-profits/charitable-organizations/the-restriction-of-political-campaign-intervention-by-section-501c3-tax-exempt-organizations>>.

16. On information and belief, since the dissemination of Exhibit 1, at least four of the five institutions of higher education have repudiated (e.g., issued "cease and desist" letters) the actions of Respondents, to wit Respondents' knowing, intentional, and false representation that Respondents had received the support or endorsement of, the named institutions of higher education. See Exhibit 2; Exhibit 3 (attached hereto) (Will Garbe, "3 schools to Democratic candidate: Remove our names from campaign material," *Dayton Daily News*, 11 July 2018 <<https://www.daytondailynews.com/news/national-govt--politics/schools-democratic-candidate-remove-our-names-from-campaign-material/TebYmwz9L3Ww5jwFY1YMLO/>>); Exhibit 4 (attached hereto) (Letter from Central State University General Counsel to Theresa Gasper for

Congress, dated July 10, 2018); Exhibit 5 (attached hereto) (E-mail correspondence from Sinclair Community College General Counsel to Theresa Gasper for Congress, dated July 11, 2018); Exhibit 6 (attached hereto) (Letter from Wright State University General Counsel to Theresa Gasper for Congress, dated July 11, 2018).

## **COUNT I**

### **Knowing receipt of prohibited in-kind contributions from University of Dayton**

17. Complainants restate and incorporate by reference the factual allegations in Paragraphs 8-16 of the Complaint as though fully set forth herein.

18. The Act and Commission regulations prohibit a candidate from knowingly accepting or receiving any contribution prohibited by the Act. 52 U.S.C. §30118(a); 11 CFR §114.2(d).

19. Pursuant to the Act and Commission regulations, contributions from corporations organized by authority of any law of Congress, including non-profit corporations, are prohibited. 52 U.S.C. §30118(a); 11 CFR §114.2(a).

20. The Act and Commission regulations define "contribution" as, *inter alia*, "anything of value." 52 U.S.C. §30118(a); 11 CFR §114.1(a)(1).

21. On information and belief, the University of Dayton referenced in Exhibit 1 is a non-profit corporation.

22. On information and belief, the University of Dayton possesses significant goodwill within the local community (and beyond), including across the Tenth Congressional District of Ohio. When engaged in favor of a political candidate during a campaign, the goodwill associated with the University of Dayton would constitute an in-kind contribution to that candidate.

23. On information and belief, Respondents constructively received this in-kind contribution by bestowing it upon themselves, despite warnings from at least one of the institutions of higher education that it did not give – and would be prohibited from giving – such an in-kind contribution.

24. On information and belief, by publicly disseminating Exhibit 1, Respondents have intentionally, knowingly, and without authorization appropriated the name, and associated goodwill (constituting a contribution in-kind), from the University of Dayton (a non-profit corporation) for impermissible political campaign and fundraising purposes.

25. On information and belief, Respondents have thus failed to comply with the Act and Commission regulations by knowingly receiving an in-kind contribution prohibited by the Act in violation of 52 U.S.C. §30118(a), 11 CFR §114.2(a), and 11 CFR §114.2(d).

## **COUNT II**

### **Knowing receipt of prohibited in-kind contributions from Wright State University**

26. Complainants restate and incorporate by reference the factual allegations in Paragraphs 8-25 of the Complaint as though fully set forth herein, replacing all references to "the University of Dayton" in Paragraphs 17-25 with "Wright State University".

## **COUNT III**

### **Knowing receipt of prohibited in-kind contributions from Sinclair Community College**

27. Complainants restate and incorporate by reference the factual allegations in Paragraphs 8-25 of the Complaint as though fully set forth herein, replacing all references to "the University of Dayton" in Paragraphs 17-25 with "Sinclair Community College".

## **COUNT IV**

### **Knowing receipt of prohibited in-kind contributions from Central State University**

28. Complainants restate and incorporate by reference the factual allegations in Paragraphs 8-25 of the Complaint as though fully set forth herein, replacing all references to "the University of Dayton" in Paragraphs 17-25 with "Central State University".

## **COUNT V**

### **Knowing receipt of prohibited in-kind contributions from Antioch College**

29. Complainants restate and incorporate by reference the factual allegations in Paragraphs 8-27 of the Complaint as though fully set forth herein, replacing all references to "the University of Dayton" in Paragraphs 17-25 with "Antioch College".

**RELIEF REQUESTED**

Complainant respectfully requests that the Commission thoroughly investigate the foregoing allegations, order Respondents to fully comply with all relevant laws and regulations, and order any other relief the Commission deems necessary.

Respectfully submitted,



Kevin Doering  
Deputy Campaign Manager  
Citizens for Turner  
P.O. Box 750846  
Dayton, OH 45475




**WILLIAM CARPENTER**  
Notary Public  
State of Ohio  
Commission Exp. July 29, 2020

STATE OF OHIO

\*  
\* SS  
\*

COUNTY OF MONTGOMERY

Signed and sworn to before me, a Notary Public in and for the State of Ohio, by the said Kevin Doering, this 26 day of July, 2018.

  
Notary Public

CC: Democratic Congressional Campaign Committee (DCCC)  
Dan Sena  
Executive Director  
430 S. Capitol Street, SE  
Washington, DC 20003



*You are cordially invited to join us for a higher education fundraiser in support of*

**Theresa Gasper**  
**Democratic Candidate for Congress OH-10**

*with honored guest*

**Paul Bradley**  
Candidate for Ohio State Senate District 5

**Host Committee:**

**University of Dayton**

Sam Dorf  
Masha Kisel  
Karen Bartley  
Beth Flach  
Patrick Donnelly  
Rebecca Cochran

**Wright State University**

Jessica Barnett  
John Dinsmore  
John Kurokawa  
Melissa Spirek

**Sinclair Community College**

Derek Petrey  
Rodney Veal

**Antioch University**

Maureen Heacock

**Central State University**  
Cynthia Hammond

**Maxima Cum Laude: \$1,000 | Summa Cum Laude: \$500 |**

**Magna Cum Laude: \$250 | Cum Laude: \$100 |**

**Dean's List: \$50**

*\*Price levels are suggested, please contribute what you can.*

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<https://secure.actblue.com/donate/highereducationrent>

**Thursday | July 12<sup>th</sup> | 2018**  
**5 – 7:30pm**

**Mudlick Tap House**  
**135 E 2<sup>nd</sup> St. Dayton**

Please RSVP to [sandersen@gasperforcongress.com](mailto:sandersen@gasperforcongress.com) by July 10<sup>th</sup>

\*Cash bar, appetizers provided

**Paid for by Theresa Gasper for Congress**



Caption ↓

## University warned candidate Theresa Gasper against implying school's endorsement

July 12, 2018  
By Will Garbe



Top Central State University administrators personally warned Theresa Gasper against implying the school endorsed her Democratic congressional campaign prior to her staff including the school's name and the name of its president in a campaign fundraiser invitation, the Dayton Daily News found in a review of public records.



## Dayton Daily News

Federal tax code prohibits universities from endorsing candidates for political office, prompting worries among local school officials that Gasper's campaign material featuring their trademarked names could be mistaken as an illegal endorsement.

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Gaspar did not personally sign off on the invitations featuring the names of the five local schools, said Shu-Yen Wei, her campaign manager. Wei blamed a "formatting error" for the invitation including the schools' names.

### **ORIGINAL STORY: 3 schools to Democratic candidate: Remove our names from campaign material**

Central State, Wright State University, Sinclair Community College and the University of Dayton each demanded Gasper remove their trademarked name from her fundraising material. An attorney for Antioch University, which was included on the invite, did not respond to the newspaper's request for information.

Gaspar's fundraiser invitation identified a "Host Committee," which subdivided individual Gasper supporters by the university or college where they work. Included on the list was Central State President Cynthia Jackson-Hammond.

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To print the document, click the "Original Document" link to open the original PDF. At this time it is not possible to print the document with annotations. **Subscribe for 99¢**

**Dayton Daily News**

In a cease and desist letter, Central State told Gasper's campaign that Jackson-Hammond "did not authorize the use of her name or the name of Central State University to be used for this invitation or any other campaign documents or activities."

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**Dayton Daily News** "The newspaper's daily news real endorsements were stated to Ms. Gasper in prior conversations by several senior level administrators," wrote Laura Wilson, Central State's general counsel. **Subscribe for 99¢**

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Wei said including Jackson-Hammond's name on the invitations was a mistake.

"Honestly, it was a mistake that her name was on there," Wei told the Daily News. "It was a mistake on the part of campaign staff ... we took it off right away when we found out."

The newspaper used Ohio's public records law to obtain copies of the communication

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The newspaper used Ohio's public records law to obtain copies of the communication between the three public schools and Gasper's campaign. The records show concern about the campaign invitation reached the president of each university.

**Dayton Daily News**

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**\* Funeral set for ex-Graham wrestler, Rep. Jim Jordan's nephew, killed in crash**

"You must immediately remove Wright State University's name from any association with a 'Host Committee' in any solicitation for political fundraising on your behalf as it constitutes a violation of state and federal laws governing a prohibition on political activity by a state university and activity inconsistent with the university's IRS government non-profit status classification," wrote Larry Chan, the school's general counsel, in a letter to Gasper.

To print the document, click the "Original Document" link to open the original PDF. At this time it is not possible to print the document with annotations.

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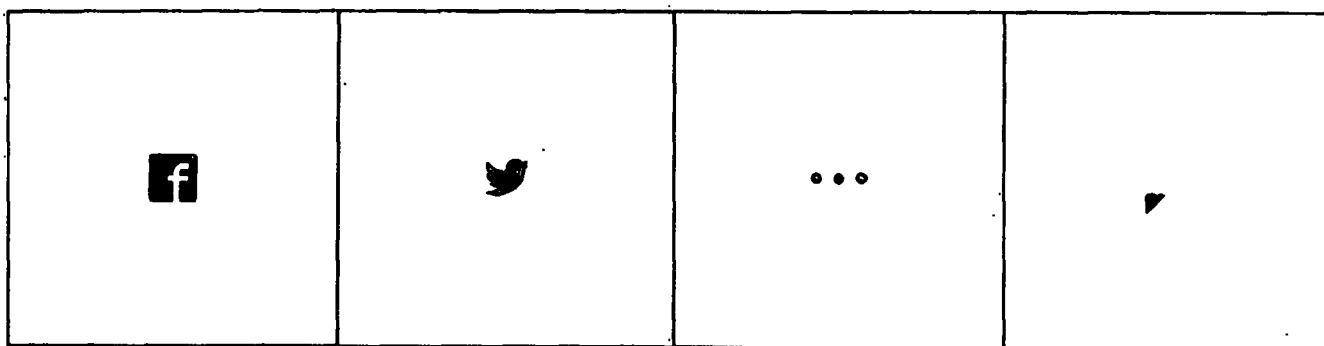
Ohio Assistant Attorney General Lauren Ross, who represents Sinclair, told Wei, "Sinclair Community College is a public institution of higher education and a political subdivision of the state of Ohio and is prohibited by state and federal law from engaging in partisan political activity, including endorsing or providing financial support to any political candidate."

Gasper's opponent, U.S. Rep. Mike Turner, R-Dayton, has pledged to file a complaint against her with the Federal Elections Commission, claiming she risked the region losing "millions" in federal dollars given to local schools. Experts interviewed by the newspaper said such a complaint would be likely unfruitful due to the commission's partisan gridlock.

Contact this reporter at 937-259-2086 or email [Will.Garbe@coxinc.com](mailto:Will.Garbe@coxinc.com).

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- These Dayton-area suburbs saw the largest population gains
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Caption ↓

## 3 schools to Democratic candidate: Remove our names from campaign material

July 11, 2018

By Will Garbe, Staff Writer



DAYTON — The University of Dayton, Sinclair College and Wright State University asked Democratic congressional candidate Theresa Gasper to remove mentions of their institutions from a fundraiser invitation she sent supporters, the Dayton Daily News has learned.

**UPDATE:** Central State warned Theresa Gasper against implying endorsement

UPDATE: Central State warned Theresa Gasper against implying endorsement

## Dayton Daily News

Wright State sent a cease and desist letter to Gasper's campaign for Ohio's 10th District, said Dan Tierney, a spokesman for Republican Ohio Attorney General Mike DeWine, who represents the state's public universities in legal matters.

A campaign spokeswoman for Gasper said the invitation "had a formatting error and was immediately corrected."

Elections experts interviewed by the newspaper said Gasper likely erred, but noted the possible infraction was small.

### • Funeral set for ex-Graham wrestler, Rep. Jim Jordan's nephew, killed in crash



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The invitation listed five local higher education institutions with names of staff members from those schools who support Gasper's campaign underneath. The president of Central State University, Cynthia Hammond, appears on the invitation, as does an individual from Antioch University, a private school. CSU declined comment, and an attorney for Antioch did not respond.



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"As a 501(c)(3) nonprofit organization, the University of Dayton is prohibited from engaging in any political campaign activity that favors or opposes a candidate for public office." the

# Dayton Daily News

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complaint. **Dayton Daily News**

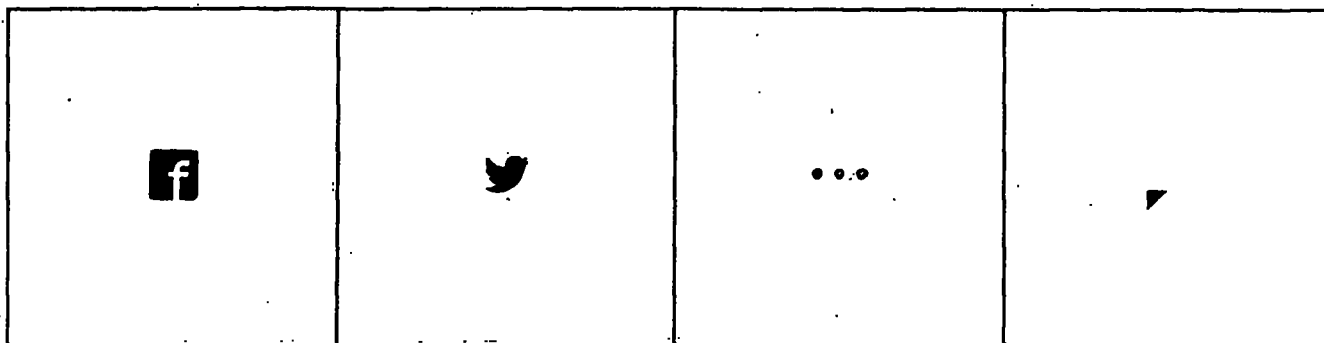
"Right now the FEC is completely paralyzed by a severe and longstanding partisan divide among the commissioners, so it would be unlikely the FEC would take action on this or anything else," Gardner said.

Kyle Kondik, a University of Virginia Center for Politics analyst and former Ohioan, said, "Many of the attacks campaigns lodge against one another are hyperbolic, and this is certainly no exception."

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A spokesman for Wright State said the university "took immediate action to direct the Gasper campaign to cease and desist from using the university's name for any campaign fundraising activities or any other political purposes."

"Individual university community members are welcome to participate in all forms of community engagement including political campaigns but not on behalf of or as representatives of the university," said Seth Bauguess, the spokesman.

Gasper's opponent, U.S. Rep. Mike Turner, R-Dayton, said the error "shows a complete lack of experience" and jeopardizes millions of dollars in federal money given to the five higher education institutions mentioned in the invitation. He pledged to file a complaint against her with the Federal Elections Commission.

"Clearly, this is amateur hour with the Gasper campaign and shows her complete lack of experience, and we certainly don't want ... to gamble our congressional seat when we're dependent on millions of federal dollars on someone who doesn't even know how to run her campaign in accordance with the law," Turner told the Daily News. Subscribe for 99¢

Gasper's spokeswoman, Shu-Yen Wei, responded saying, "Maybe instead of attacking our local events, he should hold some of his own."

"But this does raise the question of what Congressman Turner's taxpayer-funded congressional staff is doing sending out attacks in the middle of a day when Congress is in session," Wei said. Turner's campaign did not respond to the comment.

#### • University of Dayton cuts ties with annual "Dayton to Daytona" trip

Embarrassment is likely the only risk to the Gasper campaign, said University at Buffalo election law professor James Gardner.

"I wouldn't say there's any high crimes and misdemeanors going on here, just bad, sloppy practices," Gardner said. "This is like the lowest kind of infraction imaginable, and not only that, it's the kind of thing agencies would be reluctant to touch. There is a tendency to give the widest possible latitude to speakers in order not to infringe anyone's legitimate free speech rights."

Gardner said the FEC is so dysfunctional it likely wouldn't take action on Turner's threatened



**CENTRAL STATE UNIVERSITY Wilberforce, Ohio 45384**

**General Counsel &  
University Secretary to the Board**

Phone: (937) 376-6013

Fax: (937) 376-6254

Email: [lwilson@centralstate.edu](mailto:lwilson@centralstate.edu)

July 10, 2018

**SENT VIA EMAIL TO: [swel@gasperforcongress.com](mailto:swel@gasperforcongress.com)**

**Shu-Yen Wei, Campaign Manager**

**Theresa Gasper for Congress**

**Dear Campaign Manager Wei,**

I am in receipt of the attached invitation listing Central State University President Cynthia Jackson-Hammond as a member of the host committee for an event supporting Theresa Gasper for Congress. Please be advised that President Jackson-Hammond did not authorize the use of her name or the name of Central State University to be used for this invitation or any other campaign documents or activities. As a public institution of higher education, the University and its employees cannot endorse any candidate for political office.

Please cease and desist the use of the names Central State University and President Cynthia Jackson-Hammond or any variations thereof, in your publications and/or activities and retract all previous unauthorized use of the names. The restrictions of implied or real endorsements were stated to Ms. Gasper in prior conversations by several senior level administrators.

Should you have any questions regarding this notification, please contact the Office of General Counsel.

  
Laura L. Wilson  
General Counsel

Enc.

Cc: **Shannon Welch (via email to [swelch@gasperforcongress.com](mailto:swelch@gasperforcongress.com))**  
**Cynthia Jackson-Hammond**  
**Charles Shahid**  
**Wendy Hayes**

Office of General Counsel & Board Office  
1400 Brush Row Road • P.O. Box 1004 • Wilberforce, OH 45384 • [www.centralstate.edu](http://www.centralstate.edu)

**Ross, Lauren**

---

**From:** Ross, Lauren  
**Sent:** Wednesday, July 11, 2018 9:28 AM  
**To:** Shu-Yen Wei  
**Cc:** sandersen@gasperforcongress.com; info@gasperforcongress.com  
**Subject:** Use of Sinclair Community College name by Gasper for Congress

Ms. Wei,

Thank you for taking my call on July 10, 2018 in which I stated that the Gasper campaign is not authorized to use the name of Sinclair Community College in campaign materials or fundraising activities. In response to my question about an invitation for a specific upcoming fundraiser, you indicated that the campaign has removed the name of Sinclair Community College and the other universities from this invitation and you emailed me a copy of the revised invitation reflecting that.

Sinclair Community College is a public institution of higher education and a political subdivision of the State of Ohio and is prohibited by state and federal law from engaging in partisan political activity, including endorsing or providing financial support to any political candidate. In addition the college's name is a registered trademark.

Please be advised that the Gasper campaign is not authorized to use the name of Sinclair Community College in any way that suggests or implies endorsement or contribution and may not use the college's name in any other way without the express permission of the college.

Lauren M. Ross  
Sinclair Community College  
General Counsel, Ohio Assistant Attorney General  
444 West Third Street, Room 12-221  
Dayton, Ohio 45402-1460

937-512-2164  
937-512-4647-fax  
[lauren.ross@sinclair.edu](mailto:lauren.ross@sinclair.edu)

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**From:** Shu-Yen Wei <[swei@gasperforcongress.com](mailto:swei@gasperforcongress.com)>  
**Sent:** Tuesday, July 10, 2018 4:11 PM  
**To:** Ross, Lauren <[lauren.ross@sinclair.edu](mailto:lauren.ross@sinclair.edu)>  
**Subject:** revised event flyer

Hi Lauren,  
Thanks for the call. Please see our revised event flyer here. Sincere apologies for the confusion on our end.

--

---

**Shu-Yen Wei**  
**Campaign Manager**  
**Theresa Gasper for Congress**

1608444115119



Office of General Counsel  
282 University Hall  
3640 Colonel Glenn Hwy.  
Dayton, OH 45435-0001  
(937) 775-2719  
FAX (937) 775-3566

July 10, 2018

Ms. Theresa Gasper  
[info@uasperformcongress.com](mailto:info@uasperformcongress.com)

RE: Announcement for Higher Education Fundraiser for Theresa Gasper

Dear Ms. Gasper:

It has been brought to my attention that your campaign has circulated an invitation to the higher education community that references Wright State University in association with a "Host Committee" and a list of names of Wright State University faculty. You must immediately remove Wright State University's name from any association with a "Host Committee" in any solicitation for political fundraising on your behalf as it constitutes a violation of state and federal laws governing a prohibition on political activity by a State university and activity inconsistent with the University's IRS government non-profit status classification. You are further apprised that you may not use the University's name without express University permission and approval as the University's name is a registered and protected trademark.

Please acknowledge your receipt of this cease and desist letter and further verify in a return email that you have taken immediate action to remove any use or reference to Wright State University in your campaign materials as a participant in a "Host Committee" for your election, or in any connection with any political fundraising efforts on your behalf.

Thank you for your immediate compliance with this letter.

Very truly yours,

Larry Y. Chan  
Vice President for Legal Affairs and General Counsel  
Wright State University

cc Amy Golian, Chief Education Section  
Ohio Attorney General  
Cheryl B. Schrader, President  
Wright State University